



## **Draft guidance on complaints handling procedures for licence holders, 2015**

*“Improving the passengers’ experience”*

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# 1. Introduction

## Summary

This chapter explains Office of Rail and Road's<sup>1</sup> approach and what we think a good complaints handling procedure should achieve and why. We also summarise what is contained in the following chapters of the guidance.

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## Background and ORR's approach

1.1 Rail users - passengers and freight - are paying a growing share of the cost of running and investing in the network and services. They have rising expectations of services, and expect the industry to give them value for their money and to respond to their needs. When problems arise it is important that there are appropriate means to make complaints and seek compensation and redress for poor service. We also believe that it is essential that management information and insight from complaints is used to identify systemic and recurring problems and to identify areas when services should be improved.

1.2 Train and station licence holders are required, by their operating licence, to have Complaints Handling Procedures (CHPs) which have been approved by the ORR. This document provides guidance on what ORR will look for when exercising this approval role and when monitoring for continuing compliance. The licence condition is included at Annex A to this guidance.

1.3 ORR has a number of duties set out in section 4 of the Railways Act 1993<sup>2</sup>, which we must balance when exercising our functions. These include: "*to protect the interests of users of railway services*", and "*to promote the use of the railway network in Great Britain for the carriage of railway passengers*".

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<sup>1</sup> From the 1<sup>st</sup> April 2015 Office of Rail Regulation became Office of Rail and Road as we took on the responsibility for monitoring the performance of the strategic road network in England. Our statutory designated name will be officially changed by secondary legalisation in late 2015.

<sup>2</sup> Railways Act 1993 : <http://www.legislation.gov.uk/ukpga/1993/43/contents>

1.4 The industry recognises the importance of a good complaints handling procedure. It is a means by which licence holders deliver protection for consumers and gain insight into how their business is working from the perspective of those who use their services. An easily accessible complaints system empowers consumers to seek answers or redress when things go wrong. The information provided by complaints, as well as passenger feedback more generally, enables licence holders to identify root causes of dissatisfaction and take action to improve the customer experience.

1.5 We have seen that a number of licence holders make significant efforts to ensure that they have an effective framework in place to understand and improve the experience of their customers. It has been encouraging to see complaints handling being recognised more broadly as being part of the approach to improving customer experience, and not just a process.

1.6 Below we have highlighted a few best practice examples taken from our 2014 report on passenger engagement<sup>3</sup>.

<p><b>Scotrail:</b> proactively contacted its Paisley season ticket holders to advise them of alternatives during upgrade works, effectively pre-empting problems for those affected. Similarly, in advance of the pre-2012 Christmas strikes it pre-empted passenger anxiety by a '<i>we will get you home</i>' message'</p>	<p><b>Eurostar:</b> 'Fizz back' scheme uses text messaging to and from customers' mobile phones. Responses come through live on an on-line dashboard. This enables Eurostar to quickly identify service failures and successes</p>
<p><b>Cross Country:</b> e-mails its customers on an on-going basis asking for feedback after a journey, with a short one click 'rate experience' button.</p>	<p><b>First Trans Pennine Express:</b> proactively writes to its customers after delays, apologising and asking for feedback on how the delay was handled</p>

Figure 1: Best practice examples of passenger engagement

<sup>3</sup> Passenger engagement report 2014:  
[http://orr.gov.uk/search?queries\\_global\\_search\\_query=passenger+engagement+report&search\\_page\\_10259\\_submit\\_button=Submit](http://orr.gov.uk/search?queries_global_search_query=passenger+engagement+report&search_page_10259_submit_button=Submit)

1.7 We want to support these initiatives through our regulatory approach.

1.8 A good complaints handling procedure should:

- resolve individual complaints promptly and fairly, taking account of the reasonable interests of the complainant, including providing compensation as appropriate; and
- lead to continuous improvement, so that in the medium term the root causes of complaints are addressed and systemic solutions are put in place.

1.9 We want to see organisational cultures that support and encourage these objectives and embedded arrangements that effectively regulate themselves, minimising the need for our direct involvement. We are committed to working with the industry to achieve this outcome, but will take action where we need to.

*“To promote continuous improvements in passengers’ experience of rail, through licence holders acting on feedback through complaints”*

*ORR’s policy approach – Regulatory statement, July 2014*

## The core standards

1.10 Our expectations of licence holders are centred on three core service standards which are intended to assist licence holders in understanding what we will look for in a good CHP.

The three core standards cover:

- feedback mechanisms and response;
- people, process and structure; and
- organisational culture.

1.11 The core standards have been drafted at a sufficiently high level to enable licence holders to develop approaches that suit their own particular business models and the needs of their passengers.

1.12 We consider there to be significant benefits to an approach that focuses more on how an organisation is structured and managed around complaints handling, in order to deliver outcomes for the passenger and less on detailed commitments. Such an approach should enable licence holders to respond to the needs of their own particular markets whilst enabling change in line with evolving technological developments and passenger expectations.

## Contents of the guidance

1.13 Below, we provide a summary of what is contained in the guidance.

**Chapter 2** - provides guidance on what we mean by a complaint and who is responsible for handling a complaint.

**Chapter 3** - provides detail on the three core standards that are intended to help licence holders understand what we would look for in approving a CHP.

**Chapter 4** - describes our approach to the on-going monitoring of CHPs.

**Annex A** - Contains a copy of Condition 6 of the licence.

**Annex B** - Glossary of terms and abbreviations

## 2. Purpose and scope

### Summary

This chapter provides guidance on the purpose of these guidelines and who they apply to. It sets out what we mean by a complaint and who is responsible for handling a complaint. It provides specific guidance on the position of Network Rail and the role of Transport Focus (TF) and London TravelWatch (LTW).

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### Purpose

2.1 This guidance provides licence holders with a best practice framework for handling passenger complaints. The guidance is designed to support licence holders in:

- providing an easily accessible complaints handling service to customers;
- developing and maintaining sound customer-centric complaints handling protocols and practices;
- using empirical data and evidence relating to complaints to drive through service improvements; and
- understanding how we will regulate in this area.

2.2 Licence holders may propose whatever procedure best suits the needs and expectations of their customers and the requirements of their business. This document provides high level guidance on what ORR will expect to see reflected in any complaints handling procedure submitted to it for approval, set out in the form of a set of core standards. We also set out how we will monitor for continuing compliance.

2.3 Licence holders are, therefore, asked to ensure that they familiarise themselves with the contents of this document.

### Scope

2.4 This guidance applies to all licence holders who have a complaints handling obligation in their licence (**see Annex A**).

2.5 Relevant licence holders should ensure that all complaints handling staff (including outsourced staff) are made fully aware of the contents of the licence holder's CHP and that there are processes in place to monitor continuing staff awareness and compliance.

## Definition of a complaint

2.6 For the purposes of these guidelines a complaint is defined as:

*“Any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy”*

2.7 Although all expressions of dissatisfaction are deserving of a response, we recognise that a distinction should be drawn between a complaint and feedback for the purpose of establishing clarity around what is within the scope of regulation.

2.8 Feedback can take the form of comments which are neutral, positive or negative, about services provided by a licence holder or representatives without necessarily requiring corrective action, change of services or formal review of a decision. Feedback may, however:

- adversely affect the reputation of a licence holder; and
- influence future service reviews and delivery methods.

2.9 Feedback can take many forms, including the use of social media platforms, online forums or dedicated consumer websites. Sometimes complainants will use feedback to make what could be characterised as a complaint. It is important that licence holders have mechanisms by which such communications can be identified and dealt with in accordance with this guidance. We will look for evidence of how this will be achieved when approving CHPs.

2.10 Licence holders should also give discretion to customer-facing staff to resolve certain types of complaint on the spot, without reference to senior management. Sensitive and swift on-the-spot handling of difficult situations may help to avoid a large number of written complaints, but at the same time deliver satisfaction to the passenger. We do not expect such face-to-face on-the-spot resolution to be considered as a complaint for compliance or data recording purposes.



## Claims Allocation and Handling Agreement

2.11 The Claims Allocation and Handling Agreement<sup>4</sup> (CAHA) requires the approval of arrangements for publicising information on how to make an insurance claim against an operator. CAHA is not within the scope of this guidance.

## Ownership of complaints

2.12 A complaint about a specific train, ticket office or station shall be owned by the licence holder responsible for that train, ticket office or station. A complaint about a delay will be owned by the licence holder on whose train the passenger was travelling when the delay occurred. This holds true even where the impact of the delay arises on another part of the journey i.e. where a delay leads to a missed connection or results in a dispute over ticket validity on a later train.

2.13 On a multi-leg journey where delays occur on more than one train service the complaint should be handled in accordance with the guidance on *complaints relating to multiple-licence holders* below.

2.14 A complaint about a ticket sale will be owned by the licence holder which sold the ticket. A complaint against a third party ticket retailer should be handled by the third party retailer.

2.15 The licence holder that owns a complaint will be responsible for responding to the passenger and for paying any compensation and/or gestures of goodwill in respect of that complaint, in line with that licence holder's CHP. The licence holder which owns a complaint about a delay or cancellation will be responsible for the payment of any compensation under their Passenger Charter or National Rail Conditions of Carriage (NRCoC), as appropriate.

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<sup>4</sup> For further details relating to CAHA – please see link below:

<http://orr.gov.uk/what-and-how-we-regulate/licensing/licensing-railway-operators/licence-obligations>

## Complaints relating to third party suppliers

2.16 Third party supplier relationships are an integral aspect of service delivery and provision for licence holders. From time to time licence holders may receive complaints which relate to a third party supplier on matters such as security personnel; cleaning and catering staff; revenue protection services; and car parking providers. In circumstances where licence holders receive such a complaint, they should work with their supplier to coordinate a response. The complainant should not be required to contact the third party supplier, though are free to do so should they prefer to have their complaint answered directly.

2.17 In coordinating a response the licence holder should be aware of their responsibilities under the Data Protection Act 1998 (DPA). More detail on confidentiality and data protection are contained in chapter 3.

## Complaints relating to multiple licence holders

2.18 The national rail system is an integrated network and it is important that network benefits are maintained for passengers. Passengers with a complaint may not know which train company to contact, or they may have a complaint which involves more than one licence holder. In these circumstances, it is essential that the complaint is handled in a coherent and coordinated manner. We cover this in more detail in chapter 3 below.

## Complaints relating to Network Rail

2.19 Network Rail has a unique role as the infrastructure provider all licence holders need to work constructively and collaboratively with Network Rail in the resolution of passenger complaints.

2.20 Network Rail customer relations will handle complaints relating to:

- services provided by Network Rail at the stations which it operates (Managed Stations); and
- Network Rail as infrastructure operator (for example, complaints from local residents about line-side fencing, or complaints from car users about a level crossing).

2.21 Complaints about Network Rail as a supplier (for example, where a signal failure causes delay) will be handled by the receiving licence holder in line with their own CHP.

## The role of Transport Focus and London TravelWatch

2.22 As a condition of their licence, licence holders must consult with Transport Focus (TF) and London TravelWatch (LTW) when they establish or make any material change to their CHPs. Changes can be made at the initiative of the licence holder or where ORR has required the licence holder to carry out a review and has determined a change needs to be made.

### Appeals

#### Transport Focus

2.23 Rail passengers, who are unhappy with the outcome of their complaint to a licence holder, can contact TF<sup>5</sup> which may be able to pursue the complaint on the passenger's behalf. TF is able to deal with complaints about rail journeys anywhere in Great Britain, with the exception of services handled by LTW.

#### London TravelWatch

2.24 LTW<sup>6</sup> deals with all services operated or licensed by Transport for London (TfL), which includes London Underground Limited (LUL). In addition, LTW deals with:

- journeys wholly within the London railway area; and
- complaints about incidents that occur at specific stations within the London railway area.

2.25 LTW also manages complaints regarding Eurostar and will manage Crossrail services as they open.

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<sup>5</sup> Further information about TF can be found at the link below: [www.transportfocus.org.uk](http://www.transportfocus.org.uk)

<sup>6</sup> Further information about LTW can be found at the link below: [www.londontravelwatch.org.uk](http://www.londontravelwatch.org.uk)

2.26 More detail about how appeals should be dealt with by licence holders is contained in chapter 3.

## 3. Complaints handling core standards

### Summary

This chapter provides more detail on the core standards that we would look to see within a good complaints handling framework. The guidance and examples we provide are intended to assist licence holders in submitting a CHP to us for approval.

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### Approving CHPs

- 3.1 Licence holder's CHPs should be constructed around the three core standards that we describe within this chapter. Each core standard is drafted at a sufficiently high level to enable licence holders to develop approaches that suit their own particular business models. They, however, contain some best practice principles including those that derive from legal obligation, for example licence holders' responsibilities toward data protection. When approving CHPs we will look for ways in which the licence holder intends to adopt these best practice principles into its complaints handling procedures.
- 3.2 The three core standards cover:
- feedback mechanisms and response (for individual complaints and system wide);
  - people, process and structure; and
  - organisational culture.

3.3 The diagram below summarises what we would expect to see covered within a CHP under each core standard.



Figure 2: what we would expect to see under each core standard

## Core Standard 1: Feedback mechanisms and response

Effective complaint handling demonstrates that licence holders have customers at the heart of what they do. A good customer-focused CHP takes into account the needs and expectations of the complainant.

### Promoting awareness

3.4 Details on how and to whom a passenger should complain should be made available in the licence holder’s major publications, be prominently displayed at stations on websites and via social media. At multi-operator stations, publicity should make clear the different contact points for complaints about different services. Complaint forms should also be

made available on the request of a passenger, for example, on trains which carry guards or conductors.

- 3.5 Material relating to the promotion of complaints handling should be free from any industry-jargon and be presented in plain English.
- 3.6 Publicity material must contain details of where a complainant should go to if not satisfied with the response provided by the licence holder currently and as appropriate:
- TF;
  - LTW; and
  - Any relevant Alternative Dispute Resolution (ADR) bodies<sup>7</sup>.

## **Easily accessible to all**

- 3.7 The complaints handling process should be simple to understand and easy for the passenger to use. It should be clear how a complaint can be made, to whom it should be addressed, and what the essential information is that a complainant needs to provide.
- 3.8 We discuss below the requirement on licence holders to publish complaints service standards. These should be easy for the passenger to understand and should give the passenger a clear explanation of what to expect from the complaints handling process.

## **Access routes**

- 3.9 There should be a choice of access routes for complainants, for example, those illustrated in the diagram below.

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<sup>7</sup> The Alternative Dispute Resolution (ADR) Directive requires Member States to ensure that ADR is available “for any dispute regarding contractual obligations that a consumer has with a business”. While it doesn’t require businesses to sign-up to use ADR, it does require them to provide consumers with information about the relevant ADR bodies for the sector, and whether they will use ADR in an attempt to settle the dispute.



Figure 3: Complaint access routes

## In person

3.10 Designated customer contact points are a useful access route for the passenger. All customer-facing rail staff, including sub-contracted staff, should be trained to receive and pass on complaints.

## Websites

3.11 As a minimum, ORR would expect to see the following:

- The complaints page should be accessible within **2 clicks** of the landing/home page and contain clear details about how to contact the licence holder.
- Provision for those who are visually or hearing impaired.
- A link to the licence holder's complaint handling service quality standards (see core standard 2 below).

3.12 Licence holders are encouraged to include Frequently Asked Questions (FAQs) on a complaints page as this can often be a useful reference point for complainants and may satisfy the needs of the passenger and other general website users. Where FAQs are



present on a website, the passenger should still be able to make a complaint about the same matter.

### **Social media platforms**

- 3.13 The emergence of social media creates a number of challenges for licence holders, most notably in relation to the manner in which they manage their online presence. Many licence holders have a social media presence and regularly engage with followers.
- 3.14 Many passengers use social media platforms such as Twitter to make a complaint or indicate their frustrations or dissatisfaction.
- 3.15 We expect licence holders to have a social media policy in place to ensure that passengers are fully aware of:
- the licence holder's approach to social media;
  - the scope and opportunity for passengers to make a complaint via social media platforms; and
  - the extent to which the licence holder engages with its social media followers.
- 3.16 Where the circumstances of the complaint on social media lend themselves to an investigation, the licence holder should assist the complainant in making a formal complaint, which will then be dealt with in accordance with the licence holder's CHP. The complainant should be asked whether their feedback should be treated as a formal complaint and be advised of what that means in terms of processes and timescales.

### **Call centres or customer relations teams**

- 3.17 Licence holders should ensure that they publish and adhere to minimum opening hours for their customer service departments, during which passengers should be able to speak to a member of staff by telephone. Licence holders should, as a minimum, accept telephone complaints between the hours of 9am and 5pm Monday to Friday. At all other times licence holders should ensure that callers are met with a recorded message which clearly sets out opening times.

## Respecting equality and diversity

- 3.18 It is essential that no one is excluded from lodging a complaint. A flexible approach is likely to be necessary to meet the needs of a diverse customer base and we will look for provision, within a licence holder's CHP, for those with particular needs. This could include elements such as staff training or provision of complaints information and responses in accessible formats, for example.
- 3.19 Licence holders should also ensure that carers, support workers and guardians are able to act/advocate on behalf of a passenger with the passenger's permission/authority (see also section immediately below relating to data protection and privacy).
- 3.20 The examples provided above are for guidance purposes only. All licence holders should ensure that they obtain independent legal advice in relation to their general duties under the Equality Act 2010 (the Equalities Act) and the Disability Discrimination Act 1995 (the DDA)<sup>8</sup> respectively, as to their impact on licence holders' CHPs.

## Respecting complainant confidentiality

### Privacy Policy

- 3.21 We expect all licence holders to have a customer-facing privacy policy which should be available on the website of the licence holder and upon request from a complainant. Areas we would expect to see covered in a privacy policy are set out in the diagram below.

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<sup>8</sup> For further details of the Disability Discrimination Act 1995 – please see link below:  
<http://www.legislation.gov.uk/ukpga/1995/50/contents>

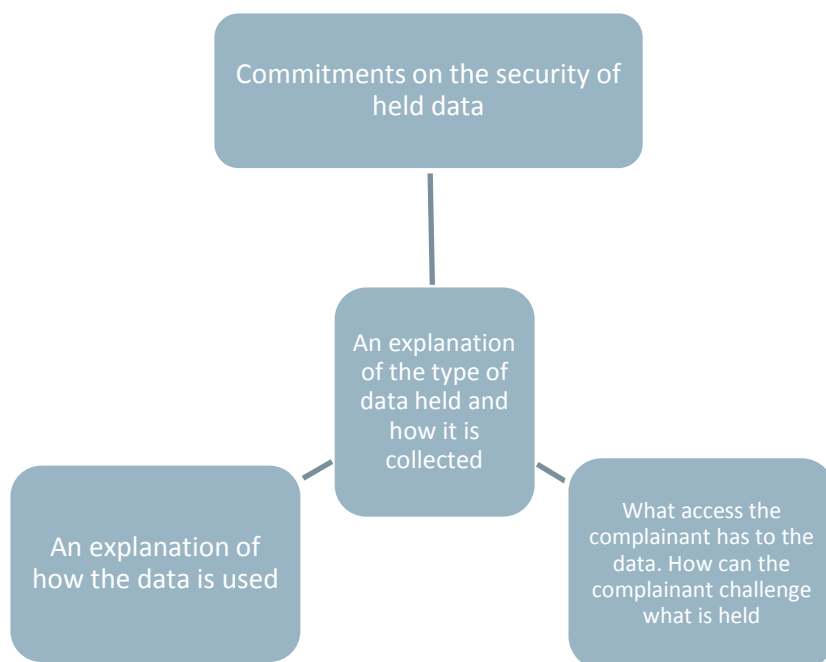


Figure 4: privacy policies – what they might contain

## Adherence to the Data Protection Act 1998 (DPA)

- 3.22 Licence holders should ensure that complainants' confidentiality is protected. Personal details or details about complaints should not be divulged to third parties, except with the written consent of the complainant.
- 3.23 All licence holders should ensure that they have written processes and procedures in place which fully adhere to the DPA. Licence holders are expected to carefully consider the manner in which complainant details, including sensitive details, are collected, used and stored. This is particularly relevant in relation to: (a) complaints involving more than one licence holder; (b) the sharing of information with TF and LTW; and (c) the sharing of information with third party suppliers.
- 3.24 Licence holders cannot pass on a complainant's personal details (or any details which would allow the complainant to be identified) to anyone else, without the complainant's permission.
- 3.25 The ORR may wish to conduct research with complainants to learn more about their experiences. Data protection concerns must be properly addressed to allow this. Licence holders should consider ways in which the complainant could be advised of this eventuality, for example by informing complainants that they could be contacted by the

regulator and providing a tick-box option to opt-out if the complainant does not wish to be contacted.

3.26 Data protection provisions should not act against the timeliness of being able to respond to a passenger's concerns. We therefore expect licence holders to consider ways in which the complainant can be asked to provide that permission at initial contact perhaps by way of a question on, for example, web-based forms.

3.27 The information above is for guidance purposes only. All licence holders should ensure that they obtain independent legal advice in relation to their duties under the DPA and should also be guided by the Information Commissioner's Office (ICO)<sup>9</sup>.

### **Complaints relating to multiple licence holders**

3.28 A complainant should not have to submit a complaint to more than one party in circumstances where a complaint involves more than one licence holder.

3.29 The receiving licence holder should (where reasonably practical) coordinate a single response on behalf of all of the licence holders involved. Sometimes this may not be sensible if the bulk of the issues rest with another licence holder. In this instance, it may be in the best interest of the complainant to receive a response directly from the party primarily responsible. In this case it is acceptable for the receiving licence holder to make arrangements to have the complaint passed to the more appropriate party in line with the licence holder's obligations under the DPA. The complainant should be informed when their complaint is transferred to another party.

### **Response times**

3.30 Licence holders must provide all complainants with an acknowledgement and complaint reference/tracking number as appropriate and to make a full response to 95% of all complaints within 20 working days.

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<sup>9</sup> Further details relating to the Information Commissioners Office (ICO) can be found at the link below:  
<https://ico.org.uk/for-organisations/>

- 3.31 Where licence holders have set themselves and then published more challenging targets, they should aim to provide full responses to at least 90% of complaints within that published target.
- 3.32 Licence holders should give discretion to customer-facing staff to resolve certain types of complaint immediately, without reference to senior management. Sensitive and swift on-the-spot handling of difficult situations may help to avoid a large number of written complaints, but at the same time deliver satisfaction to the passenger. ORR does not expect face-to-face on-the-spot resolution to be recorded for data management purposes.
- 3.33 Where a licence holder receives a sudden or unexpectedly large increase in the volume of complaints, the above timeframes may be replaced with an obligation to use reasonable endeavours to comply with them. The licence holder should set out in its CHPs the circumstances in which it would put these emergency timescales in place and the steps it will take to advise affected complainants. The licence holder must inform ORR, TF and LTW when such a circumstance occurs; including the reason; the expected duration of the emergency timescales; the plans in place to remedy the situation; the procedures in place to ensure that the quality of responses is maintained; and any steps taken to advise affected complainants.
- 3.34 This enables TF and LTW to advise passengers accordingly and for ORR to effectively carry out its role in monitoring for compliance.
- 3.35 Speed is clearly not the only determinant of an effective response. We discuss what we mean by a *'fair and full investigation'* and *'effective resolution'* below.

### **Keeps complainant informed of progress**

- 3.36 Communication with the complainant is an important on-going process whilst the complaint is under investigation. At the outset, the complainant should be advised of the complaints process and the target timescales for a response. When immediate resolution is not possible, the complainant should be kept informed of progress, either by email, letter, face-to-face meeting, or phone call depending upon the complainant's preference.

3.37 Where complaints cannot be answered fully within published timescales, licence holders must ensure that the complainant is made aware of any potential delays and provide regular updates to the complainant after the target response time has elapsed. These updates should provide meaningful information about progress being made with the complaint and should give the complainant the option to speak to someone directly should they so choose. Licence holders should aim to agree new timescales with the complainant as appropriate.

## **A full and fair investigation**

3.38 In approving licence holders' CHPs we will expect to see investigative processes which are tailored and proportionate to the issues raised. We set out below the six steps that we would expect to see in an investigatory process although acknowledge that some complaints can be resolved immediately or on-the-spot and the full investigative process would not, in those instances, be appropriate or necessary.

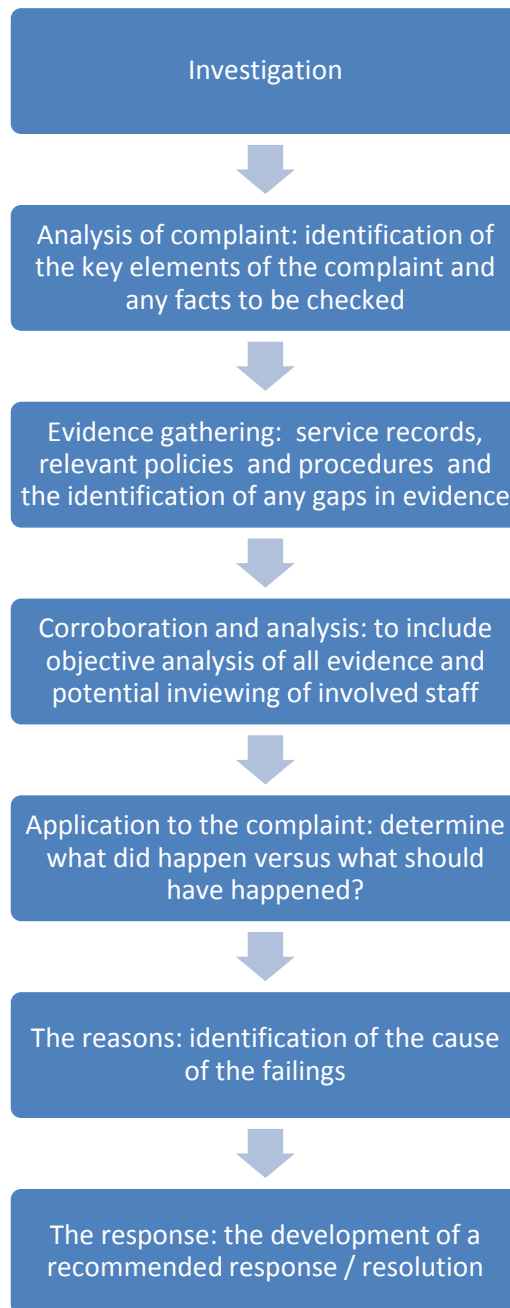


Figure 5: The six step investigatory process

## An effective response and resolution

3.39 Licence holders should provide a full written response to all complaints in plain English and free of rail industry jargon, initials or acronyms. The elements set out in the diagram below are indicative of the sort of content that passengers might wish to see covered in an effective response. This is not an exhaustive list and licence holders remain free to make their own judgements on what is appropriate to the circumstances of the complaint

and the complainant, for example, in the tone and the level of formality adopted. It is possible that, for example, a response could be appropriately dealt with by telephone (even if the original contact was in writing).

3.40 The passenger should be signposted to TF or LTW and ADR after they have received the first substantive response from the licence holder, even if the licence holder continues to engage with the complainant with the objective of resolving the complaint itself.

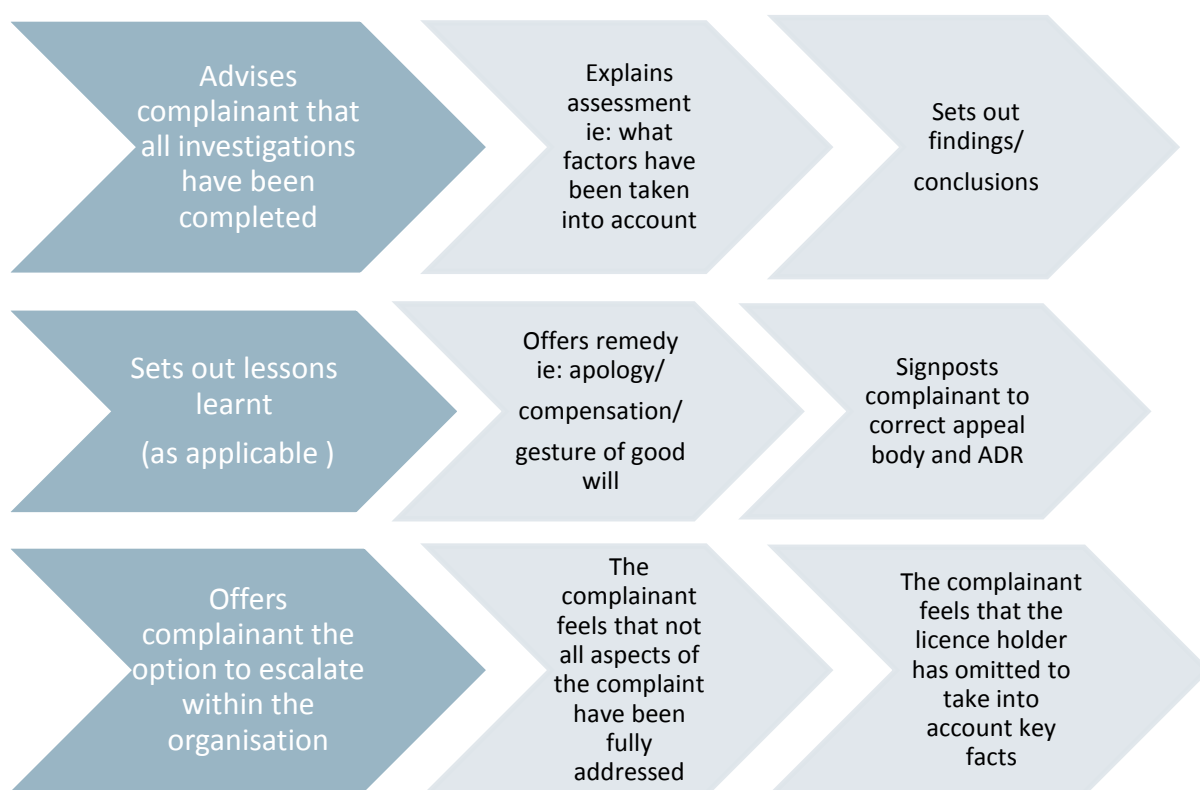


Figure 6: Elements making up an effective response

3.41 Licence holders must ensure that all complaints are resolved by which we mean **there are no outstanding actions required on the part of the licence holder.**

### Dealing with frivolous or vexatious complaints

3.42 At times, licence holders may wish to terminate correspondence with a particular complainant before full resolution has been reached. This should be a decision of last



resort, only taken if the licence holder believes the complainant's on-going communication to be frivolous or vexatious.

- 3.43 A complaint can be treated as frivolous or vexatious even where the complainant may not be satisfied with the licence holder's response. The decision as to whether a complaint is frivolous or vexatious should only be taken by a senior manager within the organisation and should be well documented. The complainant should also be advised of the contact details of LTW or TF and ADR, as appropriate.
- 3.44 Licence holders should have internal procedures that clearly define the circumstances in which correspondence will be terminated and provide guidance to staff on the authorisation required. Licence holders should record complaints that have been terminated in a way which allows them to monitor and examine the number of complaints terminated and the reasons why.

## Compensation

- 3.45 Where the complaint is about a train delay or cancellation, licence holders should, as a minimum, provide compensation in line with the NRCoC or, on terms agreed within their franchise. Licence holders should ensure that complainants are given compensation as a form of remedy if this is an appropriate option and equally have the autonomy/discretion to go beyond the compensation thresholds should they wish to do so.
- 3.46 Our research<sup>10</sup> found that almost three quarters (72%) of passenger respondents to a survey had little or no awareness of their rights to compensation. Licence holders must promote and raise awareness of compensation rights amongst passengers and we look for ways in which licence holders are doing this as part of our routine work and also when approving CHPs.

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<sup>10</sup> Passenger Compensation and refunds for delays and cancellations report 2014:  
<http://orr.gov.uk/publications/reports/rail-passenger-compensation-and-refund-rights>

## Escalation of complaints

3.47 We will look for a licence holder to demonstrate how it identifies and deals with complaints that require escalation through the management chain, including where a passenger has asked for their complaint to be escalated. Licence holders are expected to set out in their procedures: (a) the criteria for escalation; (b) how the complaint escalation process works; (c) the associated timescales; and (d) the relationship between the escalation process and the complainant's right of appeal by way of TF and LTW (see below).

## Appeals to TF and LTW - handling protocols

3.48 Licence holders must establish an appeals handling protocol with TF or LTW. This should include a commitment to review the protocol in the light of experience and/or at agreed intervals. This protocol should include the speed of response and how the appeal will be managed within the organisation. Both of these areas are set out in more detail below.

## Management of the appeal

3.49 The protocols should, as a minimum, include the:

- main point of contact (member of staff) and an alternative point of contact (member of staff);
- agreed channels for escalating appeals within the respective bodies;
- arrangements for the supply of additional/updated information; and
- arrangements for timeframe slippages / backlogs.

## Speed of response

3.50 The licence holder should undertake to:

- provide acknowledgement to TF and LTW within **3 working days** of notification of the appeal;
- respond to a request for copies of case correspondence from TF or LTW **within 5 working days of the request; and**

- respond to TF and LTW appeal submissions within **10 working days** or a maximum of 20 working days where an appeal is complex.

3.51 Where the above requirements cannot be met, licence holders must agree a reasonable alternative timeframe with TF or LTW. All reasonable steps should be taken to ensure that the above timescales are honoured.

3.52 Licence holders should also ensure that the above appeal timescale apply to third parties acting on their behalf, for example, outsourced contact centres.

## Core Standard 2: Structures, people, and processes

3.53 The following core standard provides an overview of what a well-managed complaint handling operational model should cover. It contains guidance on what we would expect to see around staffing, training and processes, including the engagement of senior staff and the implementation of quality assurance protocols. It also identifies the importance of transparency, including the establishing and publication of complaints service standards.



Figure 7: A well managed complaints handling model

## Organisational structure and people

3.54 Central to the efficient and effective management of complaints is an appropriate organisational structure and staffing.

3.55 Some licence holders may use third parties to handle their complaints. Licence holders remain responsible for compliance with their CHPs even where that function is outsourced. Licence holders should, therefore, ensure that all outsourced service providers are capable of delivering a good complaints handling service and that this is fully reflected in any service level agreement. Licence holders should, for example, seek assurance that all relevant staff have received complaints handling training and ensure that they consistently uphold complaint handling service standards as determined by the licence holder.

## Training and development

3.56 Licence holders must have comprehensive staff training programmes and training plans in place for all customer facing staff. For complaint handling staff and managers this should include a commitment to provide staff with complaints handling training that covers: customer service, complaints investigation and resolution skills. There should also be a commitment to retrain at periodic intervals or in response to evidence that complaints are not being dealt with effectively.

3.57 Licence holders must ensure that complaint handling staff have the capabilities and competencies (knowledge, skills, experience and abilities) needed to deliver a good complaint handling service. This should be embedded in the organisation's overall recruitment and training strategies respectively.

## Processes and protocols

### Record Keeping

3.58 All licence holders should have in place written procedures relating to the management of complaint records, including;

- the types of complaint/complainant records that will be kept;
- the format in which records will be kept e.g. in hard copy or electronic form; and

- the length of time records will be kept.

3.59 Licence holders should ensure that there is a process for recording all complaints on a customer complaints database or Customer Relationship Management system (CRM), whether complaints are handled by themselves or third party suppliers. Licence holders should ensure that they have appropriate access to third party supplier systems for the purposes of monitoring passenger satisfaction with the service provided.

3.60 All complaints should be recorded in such a way that the information can also be analysed for service improvement opportunities. It should be accessible for regulatory monitoring purposes, for example, as part of an on-going compliance discussion with the licence holder. Data should also be maintained in a format capable of conforming with ORR's core data requirements.

### **Quality assurance framework/quality controls**

3.61 All licence holders should have quality controls relating to complaints handling. This should include quality checks to ensure all customer communications are of a high standard.

### **The identification of systemic weaknesses**

3.62 Customer complaints should be collated centrally and used as a source of intelligence. This can help identify the scale and trends in dissatisfaction which could escalate into something more serious.

3.63 Complaints about individual staff members should always be carefully looked at to identify the wider context surrounding the particular instance. For example, the individual's working pattern should be investigated to see if there are fatigue issues and where an individual has been working alone, the health and safety implications both to the individual and the customer should be considered.

3.64 Where complainants allege they have sustained an injury as a result of the licence holder's operations, consideration should be given to whether the incident is reportable to ORR under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR).

## Complaint handling service standards

3.65 All licence holders should establish and publish service standards in relation to complaints handling. Service standards should be written with the customer in mind and should be free of industry jargon. These provide a statement of what the complainant can expect from the complaints process and provide licence holders with a metric by which success can be measured. The following illustration indicates the sort of components we would expect to see in a published service level commitment.



Figure 8: complaints handling service standards

3.66 A number of these commitments may already be adopted by licence holders and published in their Passenger Charters.

## Core standard 3: Organisational culture

3.67 This core standard provides an overview of what we will wish to see in terms of overall organisational culture, in particular the mechanisms by which complaints data is used to shape and inform service improvements and address root causes of complaints.

## Organisational ownership and commitment

3.68 An organisation which values complaints as a way to deliver insight on the performance of its business and a way to increase passenger satisfaction is likely to gain reputational and commercial advantage. Complaints handling processes should be subject to high level governance and accountability with an overarching shared vision for complaints handling forming part of the culture of the organisation. As part of this, management information on complaint volumes, trends and underlying causes should be regularly viewed at Board level so that systemic issues can be identified and addressed.

3.69 Learning from complaints is a powerful way of increasing trust and confidence amongst passengers. If a passenger knows that their complaint has helped to improve service delivery, it will encourage repeat engagement to the benefit of the business

3.70 We are keen to see that licence holders adopt values which in turn shape behaviour in relation to complaints handling.

3.71 A licence holder could demonstrate such a commitment by, for example, showing:

- a link between strategic, service and team plans that help all staff to understand the central importance of complaints handling and the cycle of continuous improvement; and/or
- having commitments to include complaints handling in key strategies or operational plans.

3.72 We give some non-exhaustive examples of how this could be demonstrated below.

### **Example 1:**

Complaints handling could be a key proposition within marketing and publicity plans which detail the importance of listening to passengers and using complaints themes and trends to improve the quality of service offered.

**Example 2:**

Customer engagement plans could include introducing a service improvement panel made up of, for example, a cross section of past complainants including those with special needs or English as a second language.

**Example 3:**

Contingency plans could take into account the need to ensure that sufficient resources are directed to complaints handling and complaint prevention where there have been major timetable delays due to overrunning engineering works or weather.



## 4. Compliance monitoring

### Summary

This chapter sets out how ORR expects to monitor on-going compliance with licence holders' CHPs and the steps that ORR might take when concerned that individual CHPs may not be supporting our objective of continuous improvements in passengers' experience of rail.

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### ORR's monitoring approach

- 4.1 We do not intend to carry out detailed annual reviews of licence holders' CHPs, but we reserve the right to do this where there is evidence of systemic issues not being addressed or a significant decrease in service performance. In addition, we will continue to monitor for compliance and the effectiveness of individual CHPs by the scrutiny of evidence such as:
- Core data sets, including information on the number, type, and underlying cause of complaints.
  - The ease with which passengers can make complaints, for example the accessibility of website information, passenger information leaflets provided at stations and information made available through social media.
  - Other relevant information published by licence holders such as the level of proactivity around communicating entitlements to compensation.
  - Feedback from TF and LTW and other third parties including, for example, the results of mystery shopping exercises.
  - Bespoke research conducted by ORR or in conjunction with TF and LTW.
  - Consumer insight gained by way of individual consumer complaints made to ORR, TF and LTW.
- 4.2 Where there is evidence to suggest that a licence holder is not achieving compliance and/or a CHP is not supporting our objective of continuous improvements in passengers' experience of rail, we may:

- Request additional information.
- Require a licence holder to conduct a review of its CHP and report findings to ORR.
- Carry out an independent audit as described below.

#### 4.3 An independent audit could cover:

- A representative sample of complaints received including those not resolved by the licence holder and taken up by TF or LTW.
- Complaints that have required licence holders to seek legal advice.
- The complaints handling management system including how complaints are recorded and tracked from initiation to completion.
- Evidence that robust feedback mechanisms exist to both identify and address systemic issues and improve company policies and processes.
- Evidence that the Board is aware of and understands the volume, type and reasons for passenger complaints and is taking sufficient action to address issues.
- How the licence holder satisfies itself that its staff are competent to carry out complaint handling, including any training material and guidance provided to staff.
- Details of quality control and internal audit processes.
- Evidence of how a licence holder monitors the sensitivity of its staff to equality and diversity issues and how shortfalls are addressed.
- The commissioning of independent research to further investigate evidence of potential non-compliance.

4.4 As a matter of standard practice, we will raise our concerns with the licence holder prior to taking any of these measures.

4.5 Where (following engagement with the licence holder) we continue to have concerns, we will consider taking action in accordance with our enforcement policy<sup>11</sup>.

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<sup>11</sup> We are currently reviewing our Economic enforcement policy – detail of which can be found at the following link :<http://orr.gov.uk/what-and-how-we-regulate/health-and-safety/health-and-safety-enforcement/enforcement-policy>

4.6 We intend to publish CHPs approval letters on our website, highlighting what we consider to be good practice and innovation amongst licence holders to encourage shared learning and insight across industry. The development of new complaints handling datasets provides us with an opportunity to present meaningful data which, when combined with narrative, will present a more representative picture of complaints handling across the sector.

## Annex A – Licence condition 6: Complaint Handling

The licence holder shall establish and thereafter comply with a procedure for handling complaints relating to Licenced activities from its customers and potential customers (the “Complaints Procedure”).

The licence holder shall not establish, or make any material change (save in respect of paragraph 3(b)), to the Complaints Procedure unless and until:

- (a) Transport Focus and, where appropriate, London TravelWatch has been consulted; and
- (b) The licence holder has submitted the Complaints Procedure, or (as the case may be) the proposed change, to ORR and ORR has approved it.

Where ORR requires the licence holder to carry out a review of the Complaints Procedure or any part of it or the manner in which it has been implemented, with a view to determining whether any change should be made to it, the licence holder shall:

- (a) promptly carry out a review and submit a written report to ORR setting out the results or conclusions; and
- (b) make such changes to the Complaints Procedure, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph (a) above and consulted the licence holder, Transport Focus and, where appropriate, London Travel Watch.

The licence holder shall:

- (a) send a copy of the Complaints Procedure and of any change to it to ORR and Transport Focus and, where appropriate, London Travel Watch;
- (b) in a place of reasonable prominence at each station at which trains operated by the licence holder are scheduled to call, display or procure the display of a

- notice giving the address from which a current copy of the Complaints Procedure may be obtained; and
- (c) Make available free of charge a current copy of the Complaints Procedure to any person who requests it.

## Annex B: Glossary

**ADR Directive**– Alternative Dispute Resolution Directive

**ATOC** – Association of Train Operating Companies

**CAHA** – Claims Allocation and Handling Agreement

**CHPs** – Complaints Handling Procedures

**CRMs** – Customer Relationship Management Systems

**DDA** – Disabilities Discrimination Act 1995

**DPA** – Data Protection Act 1998

**DPPPs** – Disabled People’s Protection Policy

**Equality Act** - The Equality Act 2010

**ICO** – Information Commissioner’s Office

**LTW** – London TravelWatch

**LUL** – London Underground Limited

**NRCoC** –National Rail Conditions of Carriage

**ORR** – Office of Rail and Road

**TF** – Transport Focus

**RIDDOR** – Reporting of Injuries Diseases and Dangerous Occurrences

**TfL** –Transport for London

For a detailed glossary of terms access the following link <http://orr.gov.uk/glossary>